

**VIRGINIA BOARD OF DENTISTRY  
MINUTES OF REGULATORY/LEGISLATIVE COMMITTEE  
JANUARY 22, 2010**

**TIME AND PLACE:** The meeting of the Regulatory/Legislative Committee of the Board of Dentistry was called to order at 1:25 p.m. on January 22, 2010 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Richmond, Virginia.

**PRESIDING:** Myra Howard, Chair

**MEMBERS PRESENT:** Jacqueline G. Pace, R.D.H.  
Robert B. Hall, Jr., D.D.S.  
Herbert R. Boyd., D.D.S

**STAFF PRESENT:** Sandra K. Reen, Executive Director  
Debbie M. Carter, Administrative Assistant

**OTHERS PRESENT:** Elaine Yeatts, Senior Policy Analyst, Department of Health Professions

**QUORUM:** All members of the Committee were present.

**PUBLIC COMMENT:** Ms. Patricia Bonwell, RDH addressed the Board about the need to serve the public in nursing homes and asked that dental hygienists be allowed to do preliminary examinations and hygiene treatment without a supervising dentist. She stated that hygienists could be required to make referrals for further dental treatment. Ms. Bonwell stated that this would allow hygienists to use mobile clinics to provide preventative oral health care.

Ms. Michelle Satterlund with the Virginia Association of Nurse Anesthetists proposed that CRNA's be allowed to practice in all dental settings regardless of the training of the dentist to align with the practice permitted by the Board of Medicine. She spoke about the level of skill, education and training that certified nurse anesthetists have and offered her assistance in developing the regulations. She also stated that this proposal had been discussed with the Virginia Society of Oral Maxillofacial Surgeons.

**MINUTES:** Ms. Howard asked if the members had reviewed the minutes of the November 20, 2009 meeting. Dr. Hall moved to accept the minutes. The motion was seconded and passed.

**STATUS REPORT ON  
REGULATORY  
ACTIONS:** **Recovery of Disciplinary Costs** – Ms. Yeatts reported that these regulations were submitted for administrative review on December 16, 2009 and are currently being reviewed by the Department of Planning and Budget.

**LEGISLATIVE UPDATE:** Ms. Yeatts reviewed the following legislation in the 2010 General Assembly session which affects health professions:

- HB 87 (Medical incident compensation; penalties) establishes a new system for determining liability in malpractice claims against physicians and hospitals.
- HB 308 (Mobile dental clinics; Board of Dentistry to develop regulations) codifies the authority to issue regulations as provided in the 2009 Appropriations Act.
- HB 654 (Administrative Process Act; final decision reviewable by a de novo appeal) changes the scope of appeals of administrative case decisions to court from consideration of the record to a de novo hearing.
- HB 662 (Health professions; disciplinary actions) permits boards to accept surrender of a license in lieu of disciplinary action.
- HB 1166 (Controlled substances; unlawfully obtaining or attempting to obtain, report required) requires patients to disclose if they have had controlled substances prescribed by more than one prescriber within the previous 30 days. If this information is not reported, the prescriber must make a report to law enforcement.
- HB 1167 (Scheduled II, III, or IV controlled substances; request and review information about patient) requires prescribers to obtain Prescription Monitoring Program reports on certain patients.
- HB 1169 (Education, continuing; on substance abuse, addiction, & related pain management for those licensed) requires prescribers to obtain continuing education on substance abuse, addiction and related pain management and prescribing practices.
- HB 1170 (Drug screens; random for certain prescriptions) requires physicians to obtain urine drug screening tests of patients when prescribing certain controlled substance for greater than 31 days.
- HB 1263 (Dentist and oral surgeons; reimbursement for certain services) prohibits certain provisions in contracts between dental plans and dentists regarding fees.

## **PERIODIC REVIEW OF REGULATIONS:**

**Chart on Part VI, Direction and Delegation of Duties/Chart on Part VII, Oral and Maxillofacial Surgeons** – Ms. Reen stated that the internal review was near completion with the final Parts, VI and VII, being circulated to the committee members.

**Regulatory Review Mark-up** – Ms. Reen said the mark-up shows the changes in structure and content the Committee members have identified in Parts I through IV. She indicated that it was clear that the regulations should be reorganized and developed substantially in this process so she felt there was adequate information for discussing

issuance of the Notice of Intended Regulatory Action (NOIRA) to start the 18 to 24 month process for amending the regulations.

**DISCUSSION OF NOIRA** – Ms. Reen said the first consideration is deciding the structure the committee will propose. She discussed two options. The first was keeping one chapter and adding articles in each part as needed to separate provisions for dentists, dental hygienists and dental assistants. The second option was to address each profession in a separate chapter and noted that the Board of Medicine is using this approach. Discussions followed about which option would be best for staff, applicants and the public. Dr. Hall moved to use chapters to organize the proposed regulations. The motion was seconded and passed.

Ms. Reen explained that this means the NOIRA will describe the action being proposed as being to repeal the current regulations and replace them with new regulations. She added this would likely require the development of a reference tool to help the public understand where new language was being proposed.

**Description of Actions** - Ms. Reen asked if the Committee wanted to schedule another meeting to go over the changes that should be identified in the NOIRA or if it would like staff to use the guidance given through the internal review to identify the changes. She added if the Committee was supportive of the latter approach she could work with Ms. Yeatts to have a draft for the March 12<sup>th</sup> Board meeting. Discussion followed and the consensus was that staff should develop it for inclusion in the March 12<sup>th</sup> agenda package but that committee members could request that it be deferred for additional work by the Committee.

**NEXT MEETING:** It was agreed to schedule the next meeting at the March 12<sup>th</sup> Board meeting.

**ADJOURNMENT:** Ms. Howard adjourned the meeting at 2:55 p.m.

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Myra Howard, Chair

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Sandra K. Reen, Executive Director

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Date

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Date